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PTO/SB/64 (07-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
05144.001

First named inventor: HISCOX, William Charles

Application No.: 10/707,699

Art Unit: 3644

Filed: 01/05/2004

Examiner: LOFDAHL, Jordan M.

Title: INSECT TRAP

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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AUG 21 2006

OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of an amendment responsive to the Office action dated 3/4/2005 (identify type of reply):

- ☐ has been filed previously on _____
☒ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 08/02/2006 TBESKAN1 00000010 10707699

- ☐ has been paid previously on 01 FC:2453
☐ is enclosed herewith.

750.00 OP

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

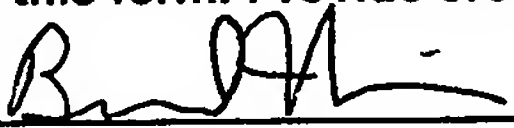
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

 _____ Signature	<u>7-28-06</u> _____ Date
Bradley P. Heisler _____ Typed or printed name	<u>35,892</u> _____ Registration Number, if applicable
Heisler & Associates _____ Address	<u>916-781-6634</u> _____ Telephone Number
<u>3017 Douglas Blvd., Suite 300, Roseville, CA 95661</u> _____ Address	

- Enclosures: ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay
- ☒ Other: revocation of power of attorney (form PTO/SB/82)

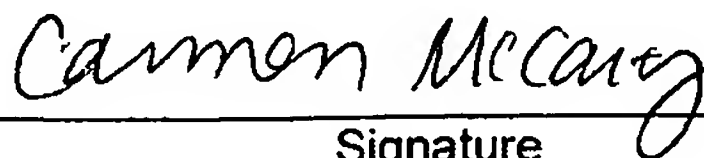
CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

7-28-06

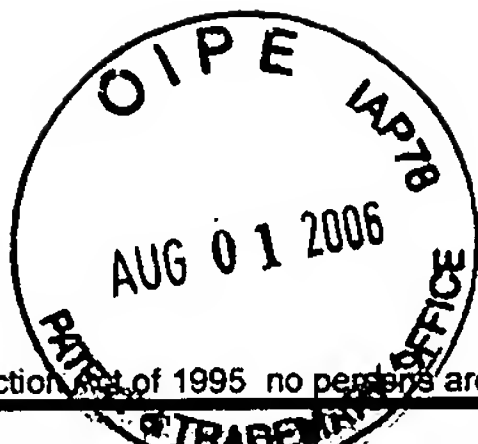
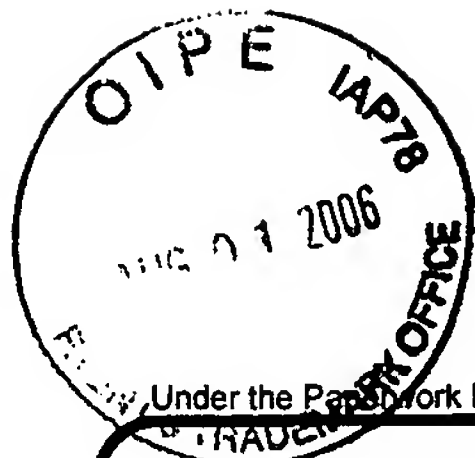
Date



Signature

Carmen McCarty

Typed or printed name of person signing certificate



PTO/SB/17 (01-06)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2006☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 750.00

Complete if Known

Application Number	10/707,699
Filing Date	01/05/2004
First Named Inventor	HISCOX, William Charles
Examiner Name	LOFDAHL, Jordan M.
Art Unit	3644
Attorney Docket No.	05144.001

RECEIVED

AUG 21 2006

OFFICE OF PETITIONS**METHOD OF PAYMENT (check all that apply)**☐ Check ☒ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☐ Deposit Account Deposit Account Number: _____ Deposit Account Name: _____

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☐ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25

Each independent claim over 3 (including Reissues)

200	100
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Multiple dependent claims

360	180
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Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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_____ - 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
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_____ - 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): petition fee _____

Fees Paid (\$)

750.00

SUBMITTED BY

Signature		Registration No. (Attorney/Agent) 35,892	Telephone 916-781-6634
Name (Print/Type)	Bradley P. Heisler	Date	7-28-06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/707,699
Applicant : HISCOX, William Charles
Filed : 01/05/2004
TC/A.U. : 3644
Examiner : LOFDAHL, Jordan M.

Docket No. : 05144.001

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AUG 21 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OFFICE OF PETITIONS

DECLARATION IN SUPPORT OF PETITION FOR REVIVAL
OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)

I, Bradley P. Heisler, declare as follows:

1. I am a registered patent attorney and was requested to take over the prosecution of this case as detailed below. I have submitted a revocation of power attorney with new power of attorney and change of correspondence address herewith.

2. On March 4, 2005 an Office action was mailed in this case which had a shortened statutory period of three months for response. Three months after this date (September 4, 2005) the final deadline for response to this Office action (with extensions) passed without the filing of any response.

3. On October 7, 2005 a notice of abandonment was mailed by the Patent Office to the then attorneys handling prosecution at the firm of Greenberg & Lieberman. The applicant was contacted by Greenberg & Lieberman by email regarding the status of the

case on October 3, 2005 (apparently they learned of the abandonment before receiving the notice of abandonment from the Patent Office), and while the term "abandonment" was not listed, the regarding line did say "URGENT!!!" This email was sent on October 3, 2005 (see the email thread attached as Exhibit A).

4. On October 4, 2005 applicant contacted me and asked that I investigate the status of this application more fully and propose response strategies. I replied by email on October 4, 2005 (Exhibit A) indicating that the application was abandoned but that it could be revived and I provided a fee quote should my office be requested to take over prosecution of the application and respond to the Office action and revive the application.

This email from me to applicant included a suggestion that the application should at a minimum have the current attorneys of record at least pay the government fee for the petition to revive. I also suggested that applicant had the option of letting the application remain abandoned and not pursuing patent protection further. At not time did the applicant select this alternative to remain abandoned. Rather, applicant requested that I proceed to handle the revival and response to the Office action.

5. My email to the applicant (Exhibit A) also erroneously stated that "you have up to one year to revive the application before it becomes more difficult to do so." I erroneously read the MPEP and confused a one year period mentioned therein with the correct date of three months from the date the applicant learns of the abandonment. This faulty analysis of the correct deadline lead me to suggest that "there is not any particular time pressure (other than the desire to get the case moving again so that you obtain your patent protection as soon as possible)."

6. Based on this faulty information, applicant more casually pursued further prosecution of this application. On October 30, 2005 I sent a Legal Services Agreement to applicant for handling the revival of this application and preparation of the appropriate reply. Applicant returned the Legal Services Agreement along with

payment on January 9, 2006.

7. Because I had erroneously determined that one year from the date of notice of abandonment was available for preparing the reply, I docketed the one year date of September 4, 2006 and gave this project a relatively low priority (see Exhibit B including docketing calendar for September 2006 showing the erroneously docketed deadline).

8. At this same time, my legal practice was receiving a larger amount of new legal work than I could handle in a timely fashion. Hence, in late January 2006, the decision was made to stop taking new clients until I could catch up on the backlog of projects that had accumulated. A combination of my large backlog (approximately 20 new patent applications to prepare and a corresponding number of Office actions to respond to in related projects) and the relatively low priority that I had erroneously assigned to this project caused this Office action response and petition to revive to not come up for further action until Friday, July 21, 2006.

9. On July 21, 2006 I began to prepare the petition to revive and response. In preparing the petition to revive and reviewing the form PTO/SB/64, I began to realize my mistake in not placing a higher priority on preparation of this petition to revive and associated response. I conducted a detailed review of the MPEP and fully determined my mistake in this regard. I then placed the preparation of this response and petition to revive at the highest level of urgency at my office. Other Office action responses (other than one which had run out of available extensions) were deferred so that this project could be expeditiously completed.

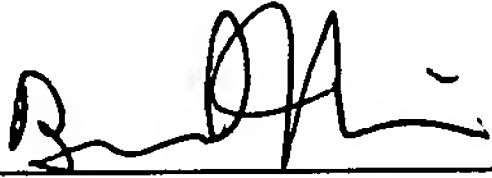
10. At no time from October 4, 2005 until the date of filing of this petition to revive, did applicant ever intend to abandon this patent application.

11. At no time from October 4, 2005 until the date of filing of this petition to revive, did applicant or myself ever intend to purposefully delay submission of this petition to revive or other response papers.

12. My docketing procedures have been modified to now docket three months from the date of receipt of notice by applicant that abandonment occurred (preferably sooner).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully Submitted:



Bradley P. Heisler
Applicant's Attorney
Telephone (916) 781-6634
Registration No.: 35,892



Date

From: Heisler & Associates <heisler@psyber.com>
To: William Hiscox <hiscox@mrdresearch.com>
Date: Tuesday, October 4, 2005 3:40 PM
Subject: Re: URGENT!!! FW: Utility Patent Applications

Bill:

My legal fee for responding to this Office action would be \$1,980 (six hours at \$330 per hour). Unfortunately, in looking at the Office action, the six month deadline for responding (with a maximum number of extensions) expired on September 4, 2005. Hence, in addition to the legal response, a petition to revive must be submitted. The government fee for the petition to revive is \$750. It may also be necessary to pay the fee for three months of extensions, which would be \$510. I would handle the filing and preparation of the petition to revive the application as part of my above quoted fee.

As Greenberg & Lieberman were planning on paying the government fees themselves, you might ask for them to pay you that amount instead. You could then decide whether or not to pocket the money and let the application stay abandoned or whether to use that money to in fact pay to revive the application. Once an application is abandoned, you have up to one year to revive the application before it becomes more difficult to do so. Hence, there is not any particular time pressure (other than the desire to get the case moving again so that you obtain your patent protection as soon as possible). I'll wait to hear from you further before taking any action in this case.

-Brad

Heisler & Associates
3017 Douglas Blvd., Suite 300
Roseville, CA 95661
Ph: 916-781-6634
Fx: 916-645-7634
Email: bheisler@heislerlaw.com

on 10/4/05 2:45 AM, William Hiscox at hiscox@mrdresearch.com wrote:

> 10/3/05
>
> Brad,
>
> Due to the very poor service and inattentiveness of the Greenberg firm, I
> want to inquire if you could take this over from them, and could you quote
> the cost for you to respond to the office action. I know they have made a
> huge mess of this, so if the cost is very high, I don't know what to do.
> Please advise, and I will talk to you when I return from Germany Oct. 12.
>
> Thanks,
>
> Bill
>
> -----
> From: "Michael Greenberg" <michael@APLEGAL.COM>
> Date: Mon, 3 Oct 2005 10:27:00 -0400
> To: "William Hiscox" <hiscox@mrdresearch.com>
> Subject: RE: URGENT!!! FW: Utility Patent Applications
>

> Bill,
>
> Attached please find an office action received from the Patent Office.
> When we were switching docketing systems, this document came in, so we
> apologize for not getting it to you sooner. We can still respond, and the
> standard cost is \$2200 attorneys fee for working with you and preparing and
> filing a response. We pay any government fees due at our own expense since
> we did not get this to you sooner.
>
> After reviewing, please feel free to give me a call so we can discuss a
> course of action.
>
> Regards,
>
> Michael
>
>
>

September 2006

Sun	Mon	Tue	Wed	Thu	Fri	Sat
27 InCom 05079 TMOAR w/-1 Elkins 04081 SoU w/-1 Redishade 05097 F+Rev w/-1 Speetzen 1030 U+F w/-1	28 Spa Blends 05110 TMOAR w/0!! Redishade 05097 OAR w/1 Schmidt 05088 U+F w/-2 NorCal 9047 §8 w/-12 Johnson 0160 §8 w/-12	29 Ewing 0172 MF w/-2	30 Redishade 06034 Miss parts w/1 InCom 05079 SoU w/0!! Redishade 05047 F+Rev w/-1 Priley 8037 India Instr Due w/-1	31	1 SHH 05068 TMOAR w/0!!	2 Lawson 1123, 05092, 05130, 05131, 06022 TMOAR w/-2 Hagele FOAR w/1
3 Mehl 3063 IF w/-1 Rice 06011 PCT Demand w/0!!, FPCT ind w/-1	4 Eoplex 3135 OAR w/2 Hiscox 05144 Revival w/0!! Kolokotronis 06008 F (D) w/-1 CES 05090 U+F w/-2	5 Christie 3018 SoU w/-1 Martineau 8096 §8 w/0!!	6 Martens 3128 FOAR w/-1 DePuy 3075 Aus OAR w/0!! Federspiel 0049 MF w/-2	7 Wade 05052 F+Rev w/-1	8 Claycomb 0106 MF w/-1	9 Carosone 05060, 05061 TMOAR w/-2
10	11 Hagele 04069 FOAR w/-1 Elkins 06047, 06048 PCT Pub w/-2 Kivley 05033 U+F w/-1 Marcum 0126 MF w/0!! Gray 9085 §8 w/-12	12 CA-DOT 05119 IF w/0!! Jones 05041 IF w/-1 Motoboard 9119 §8 w/0!!	13 Teeters 0132 OAR w/2 Netscriva 05043 F+Rev w/-1	14 Grip System 1117 Canada Req for Exam w/-2 Trovenet 9096 §8 w/-2	15 CA-DOT 05120 IF w/0!! Janes 06028 PCT Pub w/-1, Demand w/-2 Eoplex 05066 TMOAR w/-2	16 CA Glass 05063, 05064 TMOAR w/0!! CES 05031 FPCT w/-1
17	18	19	20 Arreola 04002 OAR w/0!! Syneon 2046 Mfee w/6!! Incom 05080 SoU w/0!! Syneon 2046 MFee w/-6	21 Waltrip 8010 Mfee w/-6	22 Stiers 04022 IF w/0!! Price 3125 OAR w/2	23 Redishade 06002, 06003 TMOAR w/-2 CES 0065 Mfee w/-6
24 CES 04042 OAR w/3!! Hiscox 05023 OAR w/2 CES 04042 OAR w/3!! Priley 9132 Euro OA R w/1 Mandell 04065 U+F w/-1 Madderom 8104 §8 w/-1	25 Speetzen 05029 SoU w/-1 CES 04059 Canada Mfee/w-2	26 Dimmick 2213 OAR w/1	27 InCom 05079 TMOAR w/0!! Elkins 04081 SoU w/0!! Redishade 0597 F+Rev w/0!! Speetzen 1030 U+F w/0!! P&S 0081 MF w/-2	28 Redishade 05097 OAR w/2 Schmidt 05088 U+F w/-1 CES 7048 Mfee w/-6	29 Ewing 0172 MF w/-1	30 Morrow 05094 F(D) w/-2 Redishade 06034 Miss Parts w/2 Redishade 05047 F+Rev w/0!! Priley 8037 India Instr Due w/0!!